

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sally Lynn Edmonds	Team: Squad #7	CCRB Case #: 201702861	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/07/2017 12:40 PM	Location of Incident: [REDACTED]	Precinct: 84	18 Mo. SOL 10/7/2018	EO SOL 10/7/2018	
Date/Time CV Reported Fri, 04/07/2017 1:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/13/2017 11:04 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DTS Byran Pitts	00245	927362	084 PCT
2. DTS Fady Azmy	03061	947976	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS Fady Azmy	Abuse: Detective Fady Azmy stopped § 87(2)(b) [REDACTED]	[REDACTED]
B.DTS Byran Pitts	Abuse: Detective Byran Pitts stopped § 87(2)(b) [REDACTED]	[REDACTED]
C.DTS Fady Azmy	Abuse: Detective Fady Azmy threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
D.DTS Byran Pitts	Abuse: Detective Byran Pitts threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
E.DTS Byran Pitts	Discourtesy: Detective Byran Pitts spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
F.DTS Byran Pitts	Abuse: Detective Byran Pitts threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]

Case Summary

On April 7, 2017, § 87(2)(b) filed this complaint with the Internal Affairs Bureau (IAB) via phone, and the case was received at the CCRB on April 13, 2017 (Board Review 01; 02).

On Friday April 7, 2017, at approximately 12:40 p.m., § 87(2)(b) was inside the § 87(2)(b) located at § 87(2)(b) in Brooklyn, when he engaged in a verbal dispute with § 87(2)(b) § 87(2)(b). § 87(2)(b) called 911 regarding the dispute and Detective Byran Pitts and Detective Fady Azmy, both of the 88th Precinct, responded to the location. Det. Pitts spoke to § 87(2)(b) while Det. Azmy spoke to § 87(2)(b). Eventually, both officers approached § 87(2)(b) and addressed the incident with him (**Allegations A and B**). During the encounter, both Det. Azmy and Det. Pitts removed their handcuffs from their utility belt and brandished them as if they were going to arrest § 87(2)(b) with Det. Pitts informed § 87(2)(b) that he could “take him to jail” (**Allegations C and D**). § 87(2)(b) walked out of the post office and the officers followed behind him. § 87(2)(b) informed Det. Pitts that he had filed a lawsuit against the NYPD. Det. Pitts responded, “I don’t give a fuck about no lawsuit,” and lifted up his jacket to reveal his gun as he said, “I got something for you” (**Allegations E and F**). § 87(2)(b) then walked away from the post office without being arrested or summonsed.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- § 87(2)(b) [REDACTED]
- On June 28, 2017, the New York City Comptroller’s Office notified the CCRB that § 87(2)(b) had not filed a Notice of Claim regarding this incident (Board Review 04).

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
- Det. Pitts has been a member of the NYPD for 16 years and has been the subject of 21 prior allegations, stemming from eight prior complaints. Three of the prior allegations, including a stop, frisk and search allegation, were substantiated. The CCRB recommended charges and the NYPD instituted instructions. None of the allegations indicated a pattern relevant to this case.
- Det. Azmy has been a member of the NYPD for eight years and has been the subject of four prior CCRB allegations, stemming from two complaints, none of which were substantiated or indicate a pattern relevant to this case.

Potential Issues

The United States Postal Service informed the CCRB that no video footage was available from the incident location because it had expired.

Findings and Recommendations

Allegation A – Abuse of Authority: Detective Fady Azmy stopped § 87(2)(b)

Allegation B – Abuse of Authority: Detective Byran Pitts stopped § 87(2)(b)

Allegation C – Abuse of Authority: Detective Fady Azmy threatened to arrest § 87(2)(b)

Allegation D – Abuse of Authority: Detective Byran Pitts threatened to arrest § 87(2)(b)

On April 7, 2017, § 87(2)(b) filed this complaint with IAB (Board Review 01; 02). § 87(2)(b) provided a phone statement and a sworn statement to the CCRB (Board Review 06; 07). § 87(2)(g)

§ 87(2)(b) stated that § 87(2)(b) called 911 after he engaged in a verbal dispute with her regarding his PO Box. He was speaking on the phone when Det. Azmy entered the post office and immediately approached him. Det. Azmy ordered § 87(2)(b) to disengage his phone call repeatedly. Det. Azmy then reached for his handcuffs as if to arrest § 87(2)(b). Det. Pitts, who had first gone to speak with § 87(2)(b) then approached § 87(2)(b) and threatened to arrest him by taking out his handcuffs and telling him that they could take him to jail. As Det. Pitts was threatening to arrest § 87(2)(b) peered out from behind the door of the employee-only area and pointed at § 87(2)(b) saying, “Oh, him!”

§ 87(2)(b) provided a sworn statement to the CCRB (Board Review 08). § 87(2)(b) stated that she called 911 because § 87(2)(b) had been irate and was accusing her and another § 87(2)(b) of stealing his mail. He would not step away from the service window to allow other customers to be assisted, and he was using profanity. She could not recall what information she provided to the 911 operator, but she answered all the questions that were asked of her. Two officers, identified by the investigation as Det. Azmy and Det. Pitts, arrived at the location. The officers came into the employee-only area, where § 87(2)(b) explained to them that § 87(2)(b) was irate, cursing, accusing her and another employee of stealing his checks, and would not step away from the service window. § 87(2)(b) identified § 87(2)(b) to the officers.

Det. Azmy stated that he and Det. Pitts received a call from the 911 dispatcher regarding a male, identified by the investigation as § 87(2)(b) arguing with a postal employee (Board Review 09). As soon as Det. Azmy and Det. Pitts arrived at the post office, Det. Azmy could hear § 87(2)(b) yelling loudly and complaining about the postal service, leading him to believe that he was the subject of the complaint. Det. Azmy then went to speak to § 87(2)(b) who was in the employee-only area. § 87(2)(b) explained that § 87(2)(b) wanted to take mail out of a PO Box that did not belong to him. She pointed directly at § 87(2)(b) in order to identify him for the officers. The detectives approached § 87(2)(b) and instructed him to leave the post office, a command they repeated two or three times. § 87(2)(b) finally walked outside, and Det. Azmy and Det. Pitts followed him outside and told § 87(2)(b) that he could be arrested for trespassing if he returned. Det. Azmy did not pull out his handcuffs while he was inside the building.

Det. Pitts’ statement was largely consistent with that of Det. Azmy’s in that they approached § 87(2)(b) and addressed his conduct, but he differed from Det. Azmy’s account in that he did not notice anyone doing anything out of the ordinary when he entered the post office, he stated he and Det. Azmy had ordered § 87(2)(b) to leave the post office at least three times and he stated that he and Det. Azmy explained to § 87(2)(b) that he could be arrested while he was still inside the post office, not once he was outside (Board Review 10). He elaborated that

based on § 87(2)(b) conduct he could have been arrested for criminal trespassing and possibly disorderly conduct.

NYPD event documents show that § 87(2)(b) called 911 and stated that a customer was harassing the clerks, behaving aggressively and accusing postal workers of stealing his check. She described the perpetrator as a tall black male wearing a black jacket. The event was generated at 12:37 p.m. and the officers arrived at the location at 1:17 p.m. (Board Review 11).

A police officer may stop someone only when he has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime. The officer must be able to articulate specific facts establishing justification for the stop; hunches or gut feelings are not enough People v. DeBour, 40 N.Y.2d210 (1976) (Board Review 12).

An accusation against a specific individual from the eyewitness-victim of a crime is sufficient to establish probable cause for arrest, People v. Jackson, 105 A.D.3d 866 (2013) (Board Review 13).

§ 87(2)(b), § 87(2)(g)

Allegation E – Discourtesy: Detective Byran Pitts spoke discourteously to § 87(2)(b)
Allegation F – Abuse of Authority: Detective Byran Pitts threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that he and the officers were engaged in a verbal argument (Board Review 07). After he walked out of the post office, § 87(2)(b) told the detectives that he currently had a lawsuit against the NYPD and that if the officers touched him he was going to sue them. He also said, “I’m going to fucking sue your asses.” Det. Pitts then responded, “I don’t give a fuck about no lawsuit.” He then put his palm on his jacket, right on top of his gun, before lifting his jacket as if to reveal his gun, and said, “I got something for you.” § 87(2)(b) interpreted this gesture as a threat that Det. Pitts would shoot him.

§ 87(2)(b) stated she did not witness any of the officers’ interaction with § 87(2)(b) outside of the post office (Board Review 08).

Det. Pitts stated that § 87(2)(b) may have said something about suing the NYPD but he did not specifically remember the context. Det. Pitts did not say “I don’t give a fuck about no lawsuit,” and he did not recall cursing. Det. Pitts did not say, “I got something for you,” while reaching toward or touching his weapon, or in any way threaten to shoot § 87(2)(b) or use force against him. Det. Pitts noted that he frequently rests his hand on his gun while he is working, out of habit. (Board Review 10).

Det. Azmy stated that as § 87(2)(b) walked away from the post office he shouted, “Suck my dick, you’re an asshole, come to me and I’ll sue you,” (Board Review 09). Det. Azmy could not recall whether he or Det. Pitts responded to these comments. Det. Azmy did not recall Det. Pitts saying the alleged discourteous statement, using any other profanity, or making verbal threats to § 87(2)(b). Det. Azmy did not see Det. Pitts reach his right hand toward his gun.

§ 87(2)(b), § 87(2)(g)

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Squad:

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date